

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	Group Art Unit 3635
Robert T. Long)	
)	
Serial No. 10/033,216)	Examiner: B. Katcheves
Filed: December 26, 2001)	Appeal No.:
For: Wide-Body Connector for Concrete)	
Sandwich Wall		

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the Notice of Non-Compliant Appeal Brief mailed August 11, 2009, Applicant is re-submitting the Appeal Brief with the Declaration removed from the Evidence Appendix. Applicant believes that the brief as submitted with this response is not defective.

It should be noted that Applicant has concerns about the timeliness of the Notice of Non-Compliant Appeal Brief and the fact that this form does not appear to be the correct form for this situation. This second Notice of Non-Compliant Appeal Brief was mailed August 11, 2009, more than five months after Applicant responded to the first Notice of Non-Compliant Appeal Brief. Applicant was expecting the Examiner's Brief to be mailed, and instead found that this second Notice had been issued. According to MPEP Section 1206, an Advisory Action After the Filing of an Appeal Brief (Form PTOL-304) is the appropriate form to send if the examiner will not enter an affidavit or evidence for untimeliness. The Applicant does not respond to such an Advisory Action and consequently there is no disruption to the Examiner's obligation to file an

Examiner's Brief. In this instance, however, the Notice of Noncompliant Appeal Brief has triggered a new response deadline for the Applicant, has required the Applicant's attorney to research how to respond to this Notice (and discover that it never should have been sent in the first place), further delaying the submission of the Examiner's Brief. Applicant does not believe submission of a new Brief is necessary or appropriate but is submitting such a Brief anyway in order to move the process forward.

Date: 9/12/09

Respectfully submitted,



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